IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

Crl.MC.No. 901 of 2007()

M.C.NO.48/07 OF THE SUB DIVISIONALMAGISTRATE & REVENUE DIVISIONAL OFFICER, THIRUVANANTHAPURAM.

PETITIONER: COUNTER PETITIONER

E.A.RASHEED, STANDARD CLAY MINES,
VEILOOR, AZHOOR, THIRUVANANTHAPURAM DISTRICT.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR

RESPONDENTS: PETITIONER

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1. THE SUB DIVISIONAL MAGISTRATE AND
REVENUE DIVISIONAL OFFICER, THIRUVANANTHAPURAM.

2. M.NIZAMUDHIN, SINGAPORE VILLA,
VEILOOR, SASTHAVATTOM, THIRUVANANTHAPURAM.

3. STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
KOCHI-31.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

THE SUB DIVISIONAL MAGISTRATE IS PRESENT PERSONALLY. IT IS SUBMITTED THAT THE MATTER COULD NOT BE DISPOSED OF ON ACCOUNT OF REASONS BEYOND THE CONTROL OF THE S.D.M.

HOWEVER, THE LEARNED COUNSEL FOR THE PETITIONER SUBMITS THAT THIS CRL.M.C. HAS NOW BECOME INFRUCUTOUS AND THERE IS NO FURTHER CLAIM IN THIS CRL.M.C. REQUEST ACCEPTED AND THIS CRL.M.C. IS DISMISSED AS NOT PRESSED.

16/7/2007 SD/- R. BASANT, JUDGE

//TRUE COPY// P.S. TO JUDGE

R. BASANT, J.

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Crl.M.C.No. 901 of 2007

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Dated this the 12th day of April, 2007

O R D E R

The learned Prosecutor, on instructions, submits that the case was advanced and proceeding expedited. The matter stood posted to 11.4.2007, it is reported. But most unfortunately there is no specific report as to what orders, if any, have been passed in the application under Section 142 Cr.P.C., where an interim direction is issued. It is further noted that no report has been submitted by the Sub Divisional Magistrate as directed.

2. It is directed peremptorily that the petition under Section 142 Cr.P.C. shall be disposed of by the Sub Divisional Magistrate within a period of 3 weeks from this date. All attempts shall be made to dispose of the proceedings under Section 133 also expeditiously. The report of the Sub Divisional Magistrate must reach this court by 22.5.2007. Call on 23.5.07.

Hand over copy of the order to the learned Prosecutor, who shall communicate the same to the Sub Divisional Magistrate.

(R. BASANT)
Judge

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R. BASANT, J.

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Crl.M.C.No. 901 of 2007

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Dated this the 26th day of March, 2007

O R D E R

The short grievance of the petitioner is that though conditional order under Section 133 Cr.P.C. and an order of injunction under Section 142 of

the Code have been passed, the Sub Divisional Magistrate is not disposing of the case expeditiously. The petitioner has been directed to stop the functioning of his industrial unit. But the case has been adjourned to a distant date, i.e. 24.4.2007. The Sub Divisional Magistrate is not showing the sense of expedition, which he must do while considering a matter like the instance one.

2. The learned counsel for the petitioner submits that under the guise of the order under Section 142 Cr.P.C. to stop functioning of the clay mining, he is being restrained from removing the finished products from his establishment. A clarification may also be issued that the direction to stop the functioning will not fetter the rights of the petitioner to move the finished products out of the establishment.

3. Call for a report from the Sub Divisional Magistrate as to why the matter is posted to such a distant date. I make it clear that I expect the learned Sub Divisional Magistrate to advance the posting of the case and dispose of atleast the petition under Section 142 Cr.P.C. as expeditiously as possible. The report of the learned Sub Divisional Magistrate must reach this court by 12.4.2007.

Crl.M.A. 1484 of 2007

There shall be an interim direction that the order issued under Section 142 Cr.P.C. to stop functioning of the Standard Clay Mines will not fetter the rights of the petitioner to take finished products out of the establishment.

(R. BASANT)
Judge

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